

House File 776 - Introduced

HOUSE FILE _____
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO HSB 205)

(COMPANION TO SF 337 BY COMMITTEE
ON LOCAL GOVERNMENT)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to information required to be indexed in the
2 records of the county recorder.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1777HV 82
5 sc/je/5

PAG LIN

1 1 Section 1. Section 448.15, subsection 1, Code 2007, is
1 2 amended to read as follows:
1 3 1. After taking possession of the parcel, after the
1 4 issuance and recording of a tax deed or an instrument
1 5 purporting to be a tax deed issued by a county treasurer of
1 6 this state, the then owner or holder of the title or purported
1 7 title may file with the county recorder of the county in which
1 8 the parcel is located an affidavit substantially in the
1 9 following form:
1 10 State of Iowa,)
1 11 County.) ss.
1 12 I,, being first duly sworn, on oath depose and
1 13 say that on (date) the county treasurer issued a tax
1 14 deed to (grantee) for the following described parcel:
1 15;
1 16 that the tax deed was filed for record in the office of the
1 17 county recorder of county, Iowa, on (date), and
1 18 appears in the records of ~~the that~~ office in county as
1 19 ~~recorded in Book Page of the Records document~~
1 20 ~~reference number~~; and that claims title to an
1 21 undivided percent interest in the parcel by virtue of the
1 22 tax deed, or purported tax title.

1 23 Any person claiming any right, title, or interest in or to
1 24 the parcel adverse to the title or purported title by virtue
1 25 of the tax deed referred to shall file a claim with the
1 26 recorder of the county where the parcel is located, within one
1 27 hundred twenty days after the filing of this affidavit, the
1 28 claim to set forth the nature of the interest, also the time
1 29 and manner in which the interest claimed was acquired. A
1 30 person who files such a claim shall commence an action to
1 31 enforce the claim within sixty days after the filing of the
1 32 claim. If a claimant fails to file a claim within one hundred
1 33 twenty days after the filing of this affidavit, or files a
1 34 claim but fails to commence an action to enforce the claim
1 35 within sixty days after the filing of the claim, the claim
2 1 thereafter shall be forfeited and canceled without any further
2 2 notice or action, and the claimant thereafter shall be forever
2 3 barred and estopped from having or claiming any right, title,
2 4 or interest in the parcel adverse to the tax title or
2 5 purported tax title.

2 6
2 7 Subscribed and sworn to before me this ... day of
2 8 (month), ... (year).
2 9

2 10
2 11
2 12 Notary Public in and for
2 13 County, Iowa.

2 12 Sec. 2. Section 448.17, Code 2007, is amended to read as
2 13 follows:
2 14 448.17 INDEXING AND RECORDING OF AFFIDAVITS AND CLAIMS.
2 15 All affidavits and claims as provided for in sections

2 16 448.15 and 448.16, filed with the county recorder, shall be
2 17 recorded as other instruments affecting parcels, and the
2 18 entries required in those sections and any applicable entries
2 19 specified in sections 558.49 and 558.52 shall be indexed in
2 20 the claimant's book under the description of the parcel
2 21 involved, and shall be recorded as other instruments affecting
2 22 parcels by the recorder.

2 23 Sec. 3. Section 557C.4, Code 2007, is amended to read as
2 24 follows:

2 25 557C.4 STATEMENT OF CLAIM == RECORDER'S DUTY.

2 26 Upon the filing of the statement of claim provided for in
2 27 section 557C.3 in the recorder's office for the county where
2 28 the real estate on, or under, which the mineral interest in
2 29 coal exists, is located, the recorder shall record the
2 30 statement of claim and index ~~it in the claimant's book~~ the
2 31 entries required to be made pursuant to section 557C.3 and any
2 32 applicable entries specified in sections 558.49 and 558.52.

2 33 Sec. 4. Section 558.55, Code 2007, is amended to read as
2 34 follows:

2 35 558.55 FILING AND INDEXING == CONSTRUCTIVE NOTICE.

3 1 The recorder must endorse upon every instrument properly
3 2 filed for record in the recorder's office, the day, hour, and
3 3 minute of the filing, and enter in the index the entries
3 4 required to be entered pursuant to sections 558.49 and 558.52,
3 5 ~~except the document reference number where the complete record~~
3 6 ~~will appear,~~ and the filing and indexing shall constitute
3 7 constructive notice to all persons of the rights of the
3 8 grantees conferred by the instruments.

3 9 Sec. 5. Section 614.17, unnumbered paragraph 3, Code 2007,
3 10 is amended to read as follows:

3 11 For the purposes of this section and section 614.17A, such
3 12 possession of real estate may be shown of record by affidavits
3 13 showing the possession, and when the affidavits have been
3 14 filed and recorded, it is the duty of the recorder to ~~enter~~
3 15 ~~upon the margin of the record, a certificate to the effect~~
3 16 ~~that the affidavits were filed by index the applicable entries~~
3 17 ~~specified in sections 558.49 and 558.52 and to index the name~~
3 18 ~~of the owner in possession, as named in the affidavits, or by~~
3 19 ~~the owner's attorney in fact, as shown by the records and in~~
3 20 like manner, the affidavits may be filed and recorded where
3 21 any action was barred on any claim by this section as in force
3 22 prior to July 1, 1991.

3 23 Sec. 6. Section 614.18, Code 2007, is amended to read as
3 24 follows:

3 25 614.18 CLAIM INDEXED.

3 26 Any such claim so filed, ~~shall be recorded, and the entries~~
3 27 ~~required in section 614.17A and any applicable entries~~
3 28 ~~specified in sections 558.49 and 558.52 indexed, under the~~
3 29 ~~description of the real estate involved in a book set apart~~
3 30 ~~and specially designed for that purpose to be known as the~~
3 31 ~~"claimant's book" and kept in the office of the recorder of~~
3 32 ~~the county where such real estate is situated, and said~~
3 33 ~~statement, when so indexed, shall be recorded as other~~
3 34 ~~instruments affecting real estate.~~

3 35 Sec. 7. Section 614.35, Code 2007, is amended to read as
4 1 follows:

4 2 614.35 RECORDING INTEREST.

4 3 To be effective and to be entitled to record, the notice
4 4 above referred to shall contain an accurate and full
4 5 description of all land affected by such notice which
4 6 description shall be set forth in particular terms and not by
4 7 general inclusions; but if the claim is founded upon a
4 8 recorded instrument, then the description in such notice may
4 9 be the same as that contained in such recorded instrument.
4 10 Such notice shall be filed for record in the office of the
4 11 county recorder of the county or counties where the land
4 12 described in the notice is situated. The recorder of each
4 13 county shall accept all such notices presented to the recorder
4 14 which describe land located in the county in which the
4 15 recorder serves and shall enter and record full copies of the
4 16 notices ~~in the manner provided~~ and shall index the applicable
4 17 entries specified in sections 558.49 and 558.52, and each
4 18 recorder shall be entitled to charge the same fees for the
4 19 recording of the notices as are charged for recording deeds.
4 20 In indexing such notices in the recorder's office each
4 21 recorder shall enter such notices under the grantee indexes of
4 22 deeds in the names of the claimants appearing in such notices.

4 23 EXPLANATION

4 24 This bill makes changes relating to documents filed with
4 25 the county recorder.

4 26 The bill provides that the affidavit filed by an owner who

4 27 gained possession of a parcel by tax deed shall contain the
4 28 document reference number of the tax deed. The bill also
4 29 provides that the information to be indexed for affidavits and
4 30 claims relating to issuance of a tax deed shall be the
4 31 applicable entries required to be made for conveyances of
4 32 property and any entries specific to the affidavit or claim
4 33 and required by law to be indexed.

4 34 The bill also provides that a statement of claim asserting
4 35 a mineral interest in coal, when filed with the county
5 1 recorder, shall be indexed with entries required by law for
5 2 such a statement and with the applicable entries required to
5 3 be made for conveyances of property.

5 4 The bill specifies that instruments of conveyance of real
5 5 property shall be indexed with all the information required by
5 6 law to be indexed for conveyances, including the document
5 7 reference number where the record of the instrument can be
5 8 found.

5 9 The bill further provides that affidavits of possession of
5 10 real estate relating to claims prior to 1980 and statements
5 11 claiming real estate or an interest in real estate made after
5 12 1992, if filed with the recorder, shall be indexed with the
5 13 applicable entries required to be made for conveyances of
5 14 property and with any entries specific to the affidavit or
5 15 claim and required by law to be indexed.

5 16 Finally, the bill provides that notices relating to
5 17 marketable title shall be indexed with the applicable entries
5 18 required to be made for conveyances of property.

5 19 LSB 1777HV 82
5 20 sc:rj/je/5